

FULLY EXECUTED

AGREEMENT NUMBER

6036-2

1. This Agreement is entered into between the State Agency and the Contractor named below
 STATE AGENCY'S NAME
 Governor's Office of Emergency Services
 CONTRACTOR'S NAME
 California Wing, Civil Air Patrol (C.A.P.)
2. The term of this Agreement is: July 1, 2002 through June 30, 2004
3. The maximum amount of this Agreement is: \$ 160,000.00
 One Hundred Sixty Thousand dollars and no cents
4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement:

| | | | |
|---|--------|-------|------|
| Exhibit A – Scope of Work | 4 | Pages | |
| Exhibit B – Budget Detail and Payment Provision | 1 | Page | |
| * Exhibit C – General Terms and Conditions | GTC201 | | 2/01 |
| Exhibit D – CAP Mission and Pilot Limitations Spreadsheet | 1 | Page | |
| Exhibit E – Additional Provisions | 1 | Page | |
| Attachment A – Memorandum of Understanding | 6 | Pages | |
| Attachment B – Civil Air Patrol Regulation 173-3 | 1 | Page | |

*View at www.dgs.ca.gov/contracts

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)

California Wing, Civil Air Patrol (C.A.P.)

BY (Authorized Signature)

DATE SIGNED

5-30-03

PRINTED NAME AND TITLE OF PERSON SIGNING

Larry F. Myrick, Colonel

ADDRESS

100 Cross Street, Suite 204
San Luis Obispo, CA 93401

STATE OF CALIFORNIA

AGENCY NAME

Governor's Office of Emergency Services

BY (Authorized Signature)

DATE SIGNED

6-12-03

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

3650 Schriever Ave.
Mather, CA 95655

CALIFORNIA
Department of General Services
Use Only



☐ Exempt per _____

EXHIBIT A – SCOPE OF WORK**SCOPE OF WORK**

1. OES shall make payment of claims submitted by CAP for aircraft maintenance, supplies, repairs that are provided by aircraft which are owned by said CAP as set forth below.
 - A. OES shall pay reimbursement costs for the following listed items not otherwise reimbursed under separate agreement with the US Air Force:
 1. Routine maintenance, inspection and normal overhaul parts involved therein.
 2. Vendor labor involved during the above.
 3. Actual costs of fuel and lubricants incident to the emergency service provided in attached Memorandum of Understanding.
 4. In consideration of services 1-3, the state agrees to pay up to \$80,000.00 per contract year as provided by law in SB 359 (1979) and OES annual budget.
 - B. The State will pay for acquisition of capital equipment items such as radios, directional finders, and maintenance equipment, requested, with written justification, on a quarterly basis, subject to OES review and item-by-item approval. The aforementioned items are to be purchased after item "A" is satisfied and not to exceed the quarterly total of \$20,000 or the annual contracted total of \$80,000.00 as delineated in item "A-4" above.
 - C. OES and CAP will review expenditures of allocated funding quarterly to ensure that adequate reserves are maintained to sustain mission tasking for the remainder of the contract period.
2. CAP agrees to furnish the State with a list of all aircraft owned for which authorized expenditures may be incurred. This list shall be kept current to reflect any changes.
3. CAP agrees to verify that each invoice or billing from the vendor is in accordance with this agreement and that only authorized expenditures may be claimed. Once verified, the invoices shall be mailed to the Office of Emergency Services, P. O. Box 419047, Rancho Cordova, CA 95741-9047 Attention: Accounting Office, for further processing.
4. The State agrees to coordinate with CAP to assure that invoices and running balances are reconciled to preclude any overrun of the authorization.
5. The State agrees to pay the vendor(s) for approved authorization expenditures. The total expenditures shall not exceed the amount of Eighty Thousand dollars (\$80,000.00) per state fiscal year. Total expenditures under this agreement shall not exceed One Hundred and Sixty Thousand dollars (\$160,000.00).
6. The term of the agreement is July 1, 2002 though June 30, 2004, providing funds are made available.
7. CAP agrees to maintain sufficient records of expenditures so that a follow-up audit may be conducted by the State Department of Finance.
8. This agreement cannot be assigned by CAP either in whole or part without the written consent of the State.
9. No alteration or variation of the terms of this agreement shall be valid unless made in writing and signed by the parties hereto. No oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

EXHIBIT A – SCOPE OF WORK

10. Memorandum of Understanding by and between the California Wing of Civil Air Patrol and the California Governor's Office of Emergency Services, which is Attachment A by reference, becomes a part of this agreement. Termination of Agreement No. 6036-2 or the MOU therein, terminates both.

11. ~~Deleted - Paragraphs Agreed Inapplicable. OES and CAP agree that Agreement No. 6036-2, Exhibit C, General Terms and Conditions, paragraphs 9 and 11 do not apply to this agreement.~~



12. **Notification Procedures Between CA OES Law Enforcement Branch, CAP-CAWG and Local Law Enforcement (September 6, 2002)**

A. The Mission Control Officer (MCO) for the California Wing of the Civil Air Patrol (CAP) upon conducting a search for either an Electronic Locator Transmitter (ELT) or for a downed aircraft, when it is determined that the object of the search is located within the geographic boundaries of a duly constituted law enforcement agency, shall contact the sworn on-duty Watch Commander of the jurisdiction and notify him/her that a search is being conducted by the CAP in that jurisdiction.

B. When notification has been made, the MCO shall ascertain the name of the watch commander, provide the watch commander with CAP/MCO point of contact information and request permission of the watch commander to continue the CAP search (CAP/MCO shall log unsuccessful notification attempts, dates and times).

C. The notification to local law enforcement may produce the following options:

1. The watch commander may advise the CAP to continue and handle the search with the permission of the locally affected agency (eg. ELT silence only).

2. The watch commander may recommend that the MCO discuss the incident further with the agency search coordinator (eg. More complicated search involving multiple assets).

3. The local agency may elect to initiate an incident command post and continue the search with the coordinated assistance of the CAP.

4. The local law enforcement agency responsible for the search may or may not identify CAP search missions (as a mutual aid resource).

5. The CAP may decline proposed search missions utilizing CAP resources at their discretion.

6. The local agency may elect to initiate an incident command post and assume responsibility for the entire search without further CAP participation.

7. The decision of search management and mutual aid support rests with the local law enforcement agency having search responsibility for the geographic area in question.

D. The CAP, upon request of the local agency and as a requirement of continued mutual aid participation in the search shall provide a liaison officer to the local law enforcement Incident Commander (IC) to ensure air and ground safety and to coordinate joint agency search resources and efforts.

E. The CAP/MCO in addition to notifying the local authority shall also apprise the Office of Emergency Services Warning Center of the name of the watch commander or other local authority point of contact name, date and time contacted and search status.

EXHIBIT A – SCOPE OF WORK

- F. Information obtained from the CAP/MCO shall be entered into the OES mission log as a status update for confirmation of contact. These updates are to include local requests for the CAP to discontinue search activity should such a request occur.
- G. Upon completion of a mission, the CAP/MCO shall advise the local agency watch commander (or Incident Commander) and the State Warning Center of the completion and disposition of the mission.

13. Non-Emergency Mission Tasking of Civil Air Patrol Resources by State of California Agencies, Departments and Boards Other Than The Office of Emergency Services

The Civil Air Patrol, California Wing (CAP CAWG) may be requested to perform missions by state agencies other than OES for non-disaster, non-emergency reconnaissance purposes.

The OES and CAP CAWG agree that other State of California agencies, departments and boards may utilize CAP CAWG resources for non-emergency mission tasking in a training capacity pursuant to the current MOU between OES and CAP CAWG.

A. Administration

The Office of Emergency Services will continue to be the sole point of state contact for CAP CAWG mission tasking. Other state agencies wishing to utilize CAP resources will define in writing via Letter of Agreement (LOA) the scope of the mission, the duration of the mission, and the reimbursement procedure. Upon LOA acceptance between OES, CAP CAWG and the requesting state agency, the Law Enforcement Branch (LEB) duty officer will activate a training mission number to track the non-emergency CAP mission. Mission number assignment will assist the LEB in assessing CAP workload and resource availability. Should an emergency occur necessitating the response of CAP CAWG during a non-emergency training mission for another state agency, OES reserves the right to suspend the non-emergency tasking and redirect CAP CAWG to the emergency response.

B. Funding

The OES will not provide funding reimbursement for mission tasking by other state agencies. Other state agencies wishing to task CAP resources will reimburse costs directly to CAP, by agreement, according to current established rate schedules in the MOU between OES and CAP CAWG.

For the purposes of reimbursement CAP will be permitted to bill requesting state agencies directly (this is permitted in the existing MOU upon notification) while providing OES Law Enforcement Branch with a clearly marked **copy** of any such billing. This billing process will greatly expedite reimbursement while minimizing impact on OES accounting.

C. Insurance

Non-emergency missions assigned by outside state agencies will be tracked by the issuance of an OES LEB training mission number. Such a mission number, under non-emergency tasking, will provide workers compensation coverage through the Disaster Service Worker Program for CAP CAWG personnel. OES will not provide any other insurance coverage.

D. Liability

The requesting state agency and CAP CAWG agree that OES shall be held harmless should any acts of liability occur as a result of or during non-emergency missions tasked to CAP CAWG by the requesting state agency.

EXHIBIT A – SCOPE OF WORK

Notwithstanding any other statement to the contrary, it is understood that CAP CAWG, acting under the terms of this agreement, does so as an agent of the State of California, Governor's Office of Emergency Services. Should any claim(s) arise resulting from CAP CAWG non-Air Force Assigned Mission (AFAM) tasking, to the extent allowed by law, the CAP CAWG is responsible only for meeting a reasonable professional standard of care in the performance of CAP functions in support of OES directed activities.

In light of CAP's activities as a "disaster services worker" and in providing services of its volunteers to the service of the State of California for reimbursement, CAP's relationship to the State of California is subject to interpretation, notwithstanding any statement to the contrary.

E. Posse Comitatus

CAP Regulation 900-3 section 3, 3a and 3b, permits CAP assistance to law enforcement of a passive nature (i.e. patrol, surveillance and reporting) even though such participation may lead to a prosecution. They may not take part in physical arrest or detention and have no authority to restrict persons by means of force, actual or implied.

14. California Homeland Security

Homeland Security is becoming more clearly defined as time passes. As a result, identifiable mission assignments that could be performed by the CAP CAWG become more and more likely. OES and CAP CAWG agree that should circumstances or an event occur necessitating CAP CAWG asset response in support of homeland security, that they will be tasked according to protocol and billing practices set forth in this MOU and in accordance with CAP USAF regulations.

15. The services shall be performed at various locations throughout California, as directed by OES.

16. The services shall be available on a 24-hour basis.

17. The project representatives during the term of this agreement will be:

| | |
|---|-----------------------------------|
| Governor's Office of Emergency Services | California Wing, Civil Air Patrol |
| Name: Michael Guerin | Name: Col. Larry Myrick |
| Phone: (916) 845-8701 | Phone: (818) 989-8100 |
| Fax: (916) 845-8314 | Fax: (818) 989-8108 |

Direct all inquiries to:

| | |
|---|-----------------------------------|
| Governor's Office of Emergency Services | California Wing, Civil Air Patrol |
| Section/Unit: Contracts Unit | Section/Unit: |
| Attention: Clifford M. Viernes | Attention: Col. Larry Myrick |
| Address: 3650 Schriever Ave. | Address: P. O. Box 7688 |
| Mather, CA 95655 | Van Nuys, CA 91409-7688 |
| Phone: (916) 845-8313 | Phone: (818) 989-8100 |
| Fax: (916) 845-8397 | Fax: (818) 989-8108 |

EXHIBIT B – BUDGET DETAIL AND PAYMENT PROVISIONS**BUDGET DETAIL AND PAYMENT PROVISIONS****1. Invoicing and Payment**

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.
- B. Invoices shall include the Agreement Number (6036-2) and shall be submitted in duplicate not more frequently than monthly in arrears to:

Governor's Office of Emergency Services
Accounting Office
P. O. Box 419047
Rancho Cordova, CA 95741-9047

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

4. Budget

FY 02/03 = \$80,000.00

FY 03/04 = \$80,000.00

\$160,000.00 (Total not to exceed)

Exhibit D - CAP MISSIONS AND PILOT LIMITATIONS

| IF THE PURPOSE OF THE FLIGHT IS | AND ON BOARD ARE | AND THE MISSION IS | AND THE AIRCRAFT IS | THEN MAY BE FLOWN BY | PILOT MAY BE REIMBURSED FOR | REFERENCE |
|--|---|-------------------------------------|--|---|---|--|
| Search and Locate | Pilot crewmembers, CAP members, Armed Services, Authorized Government Employees | A or B Reimbursed or Not Reimbursed | Corporate Owned | Private Pilot | Fuel, Oil, Supplemental Oxygen, Fluids, Lubricants, Servicing, Maintenance, Per Diem | Exemption 6771B |
| | Other Passengers | C Reimbursed or Not Reimbursed | Member Furnished See Aerial Work Operations | Private Pilot | In accordance with CAPR 173-3 | Exemption 6771B |
| | | A | Any | Private Pilot | Fuel, oil, airport expenditures, or rental fees | FAR 61.113(e) |
| | | B or C Reimbursed | Any | Commercial Pilot or ATP | Any Expenses Authorized by CAP | FAR 119.1(e)(4) |
| | | Not Reimbursed | Any | Private Pilot | Pilot may not pay less than the pro rata share of the operating expenses, provided the expenses involve only fuel, oil, airport expenditures, or rental fees OR pilot may not log flight time | FAR 61.113(a); FAR 61.113(c); FAR 61.113(c); FAR 119.1(e)(4); FAA Interpretation 1997-23 |
| Aerial Work Operations (Aerial imaging, radio relay) | Crewmembers (FAR 1.1) | Any | Any | Private Pilot | Pilot may not pay less than the pro rata share of the operating expenses, provided the expenses involve only fuel, oil, airport expenditures, or rental fees OR pilot may not log flight time | FAR 61.113(a); FAR 61.113(c); FAR 119.1(e)(4); FAA Interpretation 1997-23 |
| | Passengers or Non-CAP Property | Reimbursed | Any | Commercial Pilot or ATP | Any Expenses Authorized by CAP | FAR 119.1(e)(4) |
| | | Not Reimbursed | Any | Private Pilot | Pilot may not pay less than the pro rata share of the operating expenses, provided the expenses involve only fuel, oil, airport expenditures, or rental fees OR pilot may not log flight time | FAR 61.113(a); FAR 61.113(c); FAR 119.1(e)(4); FAA Interpretation 1997-23 |
| Domestic CAP or AFROTC Orientation Flights | Pilot crewmembers, CAP Cadets, AFROTC Cadets | A or B Reimbursed or Not Reimbursed | Corporate Owned | Private Pilot | Fuel, Oil, Supplemental Oxygen, Fluids, Lubricants, Servicing, Maintenance, Per Diem | Exemption 6771B |
| Overseas CAP Orientation Flights | Pilot crewmembers, CAP Cadets | Any | Member Furnished AF Aero Club Owned | Private Pilot Commercial Pilot with Instrument Rating or ATP | In accordance with CAPR 173-3 Any Expenses Authorized by CAP | Exemption 6771B Exemption 6771B, CAPR 60-1 Para 3-2 (f) |
| Transportation | Passengers or Non-CAP Property | A or Not Reimbursed | Any | Private Pilot | Pilot may not pay less than the pro rata share of the operating expenses, provided the expenses involve only fuel, oil, airport expenditures, or rental fees OR pilot may not log flight time | Exemption 6771B, FAR 61.113(c) |
| | | B or C Reimbursed | Any | Commercial Pilot Not Authorized - Part 135 | Any Expenses Authorized by CAP N/A | Exemption 6771B FAR 119.1 |

EXHIBIT E – ADDITIONAL PROVISIONS

ADDITIONAL PROVISIONS

Insurance: Contractor hereby warrants that it carries and shall maintain in full force and effect during the full term of this contract and any extensions to said term:

Sufficient and adequate Worker's Compensation Insurance for all of its employees who will be engaged in the performance of this Agreement and agrees to furnish to State satisfactory evidence thereof at any time the State may request the same; and

Sufficient and adequate Liability Insurance to cover any and all potential liabilities and agrees to furnish to State satisfactory evidence thereof upon request by State.

Contractor shall maintain Comprehensive Aviation General Liability Insurance, including without limitation, contractual liability, premises liability, completed operations liability and non-owned aircraft liability covering third party bodily injury or property damage in an amount not less than \$2,000,000. Combined Single Limit each occurrence. The policy must include Office of Emergency Services and The State of California, its officers, agents, employees and servants as additional insured, but only insofar as the operations under the Contract are concerned. Hangarkeepers' Liability providing adequate limits of protection equal to at least the value of the aircraft being serviced at any given time shall be maintained and shall include coverage both in the hangar and while in-flight.

ATTACHMENT A – MEMORANDUM OF UNDERSTANDING

**Memorandum of Understanding
By and Among
The California Wing Civil Air Patrol,
The State of California
By and Through Its
Governor's Office of Emergency Services,
And
Civil Air Patrol – United States Air Force**

1. Purpose.

The purpose of this Memorandum of Understanding (MOU) is to:

- a. Establish mutual agreements, understandings and obligations, by and between the State of California by and through the Governor's Office of Emergency Services (OES) and Civil Air Patrol (CAP) by and through its California Wing (CAWG);
- b. Supersede any and all previous MOU(s) between CAP and OES;
- c. Serve as a formal request for assistance by the State of California to the Secretary of the Air Force (SAF) through the Secretary's representative, Civil Air Patrol – United States Air Force (CAP-USAF) for the missions described in paragraph 7 below; and
- d. Designate the operations described in paragraph 7 below as Air Force assigned missions.

NOTE: No Counterdrug (CD) missions are authorized by this MOU.

2. Civil Air Patrol.

- a. Civil Air Patrol (CAP) is federally chartered corporation under 36 U.S.C. §40301-§40307, and the volunteer civilian auxiliary of the United State Air Force (USAF) when used to fulfill the non-combat programs and missions of the Department of the Air Force. With respect to any act or omission of the CAP, including any member thereof, the CAP shall be deemed to be an instrumentality of the United States when it is engaged in the performance of Air Force-assigned missions in accordance with 10 U.S.C. 9442(b)(1). CAP is not deemed to be an instrumentality of the United States when performing any missions that are not Air Force assigned.
 1. One of CAP's principal functions is to provide an organization of private citizens equipped to respond to local and national emergencies (36 U.S.C. §40302(4)). CAP's ability to quickly organize large numbers of highly trained and motivated volunteers with ready access to up-to-date equipment provides cost effective support to government agencies.
 2. California Wing (CAP CAWG) agrees to provide California with volunteer personnel, equipment, and other resources to assist California and its local political subdivisions (local governments) in responding to the missions described in paragraph 7 below.
 3. California Wing agrees to register all emergency services qualified personnel of the wing as disaster services workers. California Wing also agrees to ensure that CAP personnel from outside of California Wing will be registered as disaster services workers before participating in missions in California. All CAP personnel registered as disaster services workers as set forth in the California Government Code of Chapter 7 of Division 1 of Title 2 (Emergency Services Act) are afforded Privileges and Immunities of Article 17 section 8655, 8656, 8657 (a & b) and as provided in paragraph 4b(4) below. CAP personnel registered as disaster services workers will be issued an identification card by CAWG CAP that designates them as a disaster services worker. It is the responsibility of the Wing, and its subordinate unit commanders, to withdraw these cards from personnel at the time of separation from CAP or upon termination of their service as a disaster services worker.

ATTACHMENT A – MEMORANDUM OF UNDERSTANDING

- b. California Wing is an administrative subdivision of CAP. California Wing support may include aerial missions such as: reconnaissance (e.g. search for victims, damage assessment, or environmental surveys utilizing visual, photographic, digital, and video techniques); airborne communications support; and air transportation (subject to regulatory restrictions). Other support may include: radio communications; manual labor (e.g. filling sandbags for flood control); and ground teams (typically used in search and rescue (SAR) missions). Ground teams are prohibited from participating in CD or other law enforcement missions.

3. CAP-USAF.

CAP-USAF, a subordinate command of Air University, is the Air Force agency responsible for providing advice, assistance and oversight to CAP as the auxiliary of the Air Force. CAP-USAF is the Air Force agency that will coordinate or approve using the CAP to carry out the non-combat missions of the Air Force. Acceptance of the executed MOU by the CAP-USAF Commander serves only to confer Air Force assigned mission status to those missions described in paragraph 7 when they are conducted in accordance with regulations issued pursuant to 10 U.S.C. 9448. Air Force assigned mission status serves to make the mission subject to the Cooperative Agreement between the United States Air Force and the Civil Air Patrol and provides Federal Tort Claims Act (FTCA) and Federal Employees Compensation Act (FECA) coverage to eligible CAP members. (10 U.S.C. 9443(b)(2), 5 U.S.C. 8141.)

4. USAF.

Notwithstanding any reference to the United States Air Force or any agents thereof in this agreement the Air Force is not a party to this agreement and is not bound by its terms. Any missions to be performed as Air Force assigned missions (AFAM's) must be requested by OES to the Air Force through the offices of Air Force Rescue Coordination Center (AFRCC), Air Force National Security Emergency Preparedness (AFNSEP), and/or CAP-USAF.

5. Governor's Office of Emergency Services.

OES, acting by authority of and on behalf of the State of California, under the provisions of the Emergency Services Act (Chapter 7 Division 1 of Title 2 CGC) is responsible for coordinating all emergency operations within California, including the selection and utilization of available resources and organizations capable of rendering assistance.

- a. **Point of Contact** There will be but one Point of Contact (POC) of California authorized to request CAP assistance, although requesting agencies may be billed separately, upon request. Unless otherwise advised the California POC and billing will be as follows:

Point of Contact (POC)

Michael Guerin, Chief
OES Law Enforcement Branch
Phone: (916) 845-8700
Fax: (916) 845-8314
Address: P. O. Box 419047
Rancho Cordova, CA 95741-9047

Billing

Governor's Office of Emergency Services
Attn: Accounting Unit
P. O. Box 419047
Rancho Cordova, CA 95741-9047

- b. **Worker's Compensation.** To the extent allowed by law, the State of California shall provide Worker's Compensation insurance to CAP under the Disaster Services Worker Program (See paragraph 2(a)(3) above.) as defined by California Labor Code § 3211.92. Said worker's compensation coverage shall apply:
1. On missions performed at the request of OES or a local disaster council.
 2. On missions performed at the request of any State or Federal agency acting on behalf of OES.
 3. During authorization and supervised training carried on in the manner and by such person, as OES or a local disaster council shall prescribe at the site of the training only.
 4. To emergency services qualified personnel registered as disaster services workers as provided by California Government Code §8580.

ATTACHMENT A – MEMORANDUM OF UNDERSTANDING

6. Posse Comitatus.

Title 18 U.S.C. §1385 prohibits the USAF from providing active assistance to law enforcement (to "execute the laws") under the doctrine of *Posse Comitatus*. (See also 10 U.S.C. §§371-382.) These prohibitions are applicable to assistance the USAF extends through its auxiliary, the CAP. Consequently, participation in activities prohibited to the USAF is not authorized for CAP. Similarly, under CAP Regulation 900-3 paragraph 3, CAP is also limited to passive assistance of law enforcement agencies. Collectively, these restrictions, as applied to CAP operations, permit reconnaissance of property, but prohibit surveillance of persons or their activities. Other direct, active assistance to law enforcement, such as search, seizure, arrest or similar activities are also prohibited. 10 U.S.C. §375. The parties recognize that violation of these restrictions can result in severe consequences to CAP and its members.

7. Priority of Missions.

OES recognizes and acknowledges the priority for utilization of CAP resources in the following order: first, the USAF, then other DOD departments and agencies, other Federal departments and agencies, state civil agencies, and finally, local agencies. USAF reserves the right to exercise these priorities and withdraw CAP from missions in progress when necessary.

8. Air Force Assigned Missions.

CAP-USAF has determined that CAP may provide air and ground search and rescue, disaster mitigation, and the other assistance described below to federal, state and local agencies as Air Force assigned missions. Federally appropriated funds may be used to reimburse CAP for properly authorized SAR, DR, and 911T missions as described in subparagraphs 8a, 8b and 8c below. All other missions described in the MOU will not be reimbursed by the Air Force under this MOU. Training and practice missions requested by OES for activities described in this paragraph are deemed to be Air Force assigned. OES may reimburse CAP for any mission authorized by this MOU that does not receive USAF reimbursement and does not violate FAA regulations. See paragraph 12 of this MOU for specific guidance regarding reimbursement procedures to CAP for assistance provided when Air Force reimbursement is not approved. The following activities are Air Force assigned missions when requested by OES:

a. Air and Ground Search and Rescue (SAR) Operations.

When CAP assistance for SAR operations is needed, OES may contact the Air Force Rescue Coordination Center (AFRCC) at 1-800-851-3051 to request Air Force reimbursed mission authorization. AFRCC will approve such a mission for support of life saving efforts only when OES has no other adequate resources readily available. If AFRCC declines to authorize such a mission, OES may reimburse CAP for the operation.

b. Disaster Mitigation & Relief (DR) Operations.

When CAP assistance is desired for major disasters, OES may contact the Air Force National Security Emergency Preparedness (AFNSEP) duty officer at 1-800-366-0051 to request Air Force reimbursed mission authorization. AFNSEP may grant such authorization for "Presidential Declared" disasters or in "imminently serious" situations requiring immediate action to save human lives, prevent human suffering, and/or mitigate great property damage. A verbal request for CAP disaster mitigation or relief assistance must be followed as soon as possible by a written request to AFNSEP. If AFNSEP denies Air Force reimbursed mission authorization, OES may reimburse CAP for the operation.

c. Imminently Serious (911T) Missions.

Imminently serious (911T) missions are those requiring immediate action to save lives, relieve human suffering, or mitigate great property damage. When OES requests immediate CAP assistance, the California Wing Commander, with the concurrence of the CAP-USAF State Director of AF Liaison Services, may launch aircraft or dispatch ground teams to conduct SAR/DR missions. Such missions are restricted to 48 hours duration and expenditure of CAP funds not to exceed \$500 unless further resources are approved by CAP-USAF or OES. (See CAPR 60-3 for limitations, details and procedures.)

ATTACHMENT A – MEMORANDUM OF UNDERSTANDING**d. Environmental Protection Operations.**

California Wing may assist California through OES, to respond to impending and existing environmental disasters. In addition, at the request of OES, California Wing may conduct environmental surveys (not to exceed limitations set forth in section 6).

e. State and Regional Disaster Airlift (SARDA) Operations.

California Wing may conduct appropriate training and may engage in SARDA missions in support of governing FAA programs.

f. Organ and Tissue Transportation Operations.

California Wing may transport organs, bone marrow, blood, serum and other tissues for human recipients. CAP shall only conduct such humanitarian missions in situations where alternative commercial means of transportation are not readily available.

g. Aerial Reconnaissance.

California Wing may conduct aerial reconnaissance of ground conditions and surface traffic for OES. CAP members may not engage in surveillance of persons in connection with law enforcement activities. No CD missions are authorized under this MOU.

h. Transportation of Emergency Equipment and Supplies.

California Wing may provide air and ground transport of medical supplies, shelters, etc., in response to a state emergency.

i. OES Officials and Other Non-CAP Members Aboard CAP Aircraft.

California Wing may carry OES officials as passengers or to perform airwork on CAP aircraft on Air Force assigned missions described in this MOU. Approval procedures to carry any other non-CAP passenger or crewmember aboard a CAP aircraft are contained in CAPR 60-1, paragraph 2-6, *CAP Flight Management*. Additional pilot qualifications for carriage of non-CAP passengers are contained in paragraph 10 of this MOU. See also, Exhibit A, CAP Missions and Pilot Limitations

j. Assistance to National Guard and Air National Guard.

The CAP-USAF Liaison Region Commander may approve military and National Guard requests for support (CAP-USAFI 10-802, *Civil Air Patrol Operations And Training*). The CAP-USAF State Director of AF Liaison Services can assist with this process.

9. Corporate Missions.

Corporate missions are those missions conducted by CAP as a federally chartered nonprofit corporation under 36 U.S.C. 40301 *et seq.* and 10 U.S.C. §9443, but not as the auxiliary of the Air Force. No corporate missions are authorized by this MOU, but may be created if an Air Force assigned mission is decertified by the Air Force after the mission is completed. An Air Force assigned mission may be decertified due to noncompliance with CAP or FAA regulations, reckless conduct, etc. Corporate missions are not covered by the FTCA or the FECA. CAP's aviation and general liability insurance policies cover CAP corporate missions.

10. Command, Control, Coordination and Cooperation.

- a. Immediate command and control over all CAP resources and personnel employed in accordance with this MOU, shall rest with CAP at all times. Mutual consent should be the norm; nevertheless, any party to this agreement may suspend or terminate CAP missions conducted pursuant to this MOU, at any time, for various reasons, including, but not limited to, unsafe operating conditions. All CAP operations conducted pursuant to this MOU shall be conducted in strict accordance with applicable CAP directives.

ATTACHMENT A – MEMORANDUM OF UNDERSTANDING

- b. Both California Wing and OES agree to maintain continual and effective communication and coordination among themselves, the California's Adjutant General's Air Force Emergency Preparedness Liaison Officer (ELPO), and the CAP-USAF State Director of AF Liaison Services. This coordinator should facilitate the training necessary for effective CAP participation with California emergency service personnel in disaster relief missions.

11. Pilot Requirements.

Civil Air Patrol pilots, most of them private pilots, are required to comply with Federal Aviation Regulations (FAR's). The FAR's may prohibit private pilots from flying some of the missions contemplated by this MOU. See Exhibit D, "Missions and Pilot Limitations Spreadsheet."

12. Reimbursement.**a. State or Local Governments.**

If AFRCC, AFNSEP or CAP-USAF authorizes reimbursement for a mission from federally appropriated funds, California Wing shall not seek any additional payment or reimbursement from OES for the same expense. Dual payment or compensation is prohibited and may not be requested.

b. Calculation of Reimbursement.

Reimbursement to CAP shall be based on the rates established in Civil Air Patrol Regulation 173-3, Attachment 1 (a copy of which is attached and incorporated herein by reference). The parties agree that Attachment 1, as revised from time to time by Civil Air Patrol and approved by CAP-USAF and the Federal Aviation Administration, will be the basis for determining reimbursement. Updates to Attachment 1 will become effective 30 days after submission to OES or a later date specified in writing. Additionally, aircraft and automobile fuel and oil will be reimbursed at the actual cost.

13. Attachments.

Acknowledgment is hereby made that the following attachment are incorporated herein by reference, having been initialed and dated by the signatory below at the time this MOU is signed:

1. **Exhibit A:** Scope of Work
2. **Exhibit B:** Budget Detail and Payment Provision
3. **Exhibit C:** General Terms and Conditions
4. **Exhibit D:** CAP Missions and Pilot Limitations Spreadsheet
5. **Exhibit E:** Additional Provisions

1. **Attachment A:** Memorandum of Understanding
2. **Attachment B:** Civil Air Patrol Regulation 173-3, Attachment 1
"Aircraft Flying hour Minor Maintenance Payment Rates"

14. Amendment.

This MOU may not be amended except by written notice, which expressly identifies itself as a part of this agreement and is signed by an authorized representative of each of the parties. In the event that a court of competent jurisdiction shall hold any provision of this MOU unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision of this MOU.

15. Effective Date, Term and Termination Provisions.**a. Effective Date.**

This MOU is effective on the date the last party identified below has signed this agreement. It must be signed by an authorized representative of OES with authority to represent and bind the State of California.

ATTACHMENT A – MEMORANDUM OF UNDERSTANDING

b. Term.

This MOU shall remain in effect for a period of two years from its effective date.

c. Termination Provision.

In addition to the provision for Termination For Cause, Exhibit C, Item 7, General Terms and Conditions; any signatory may terminate this agreement by delivering a sixty-day (60 day) written notice of termination signed by its designated representative to the address below. Termination of Agreement No. 6036-2 or the MOU therein, terminates both. Copies of the termination notice shall be mailed to the designated representatives of each of the other signatories.

National Headquarters, Civil Air Patrol
Attention: DO
105 So. Hansell Street
Maxwell AFB, AL 36112

CAP, CALIFORNIA WING

By: 

Larry R. Myrick, Colonel, CAP
Commander, California Wing

Date: 5-30-03

GOVERNOR'S OFFICE OF EMERGENCY SERVICES

By: 

Dallas Jones, Director
Office of Emergency Services

Date: 6-11-03